

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION**

Mercy Housing Nebraska-I, LTD, now  
owned by V.N., LLC,

V.N.LLC,  
Appellant,

v.

Lancaster County Board of Equalization,  
Appellee.

Case Nos: 13R 796, 13R 797, 13R 798,  
13R 799, 13R 800, 13R 801, 13R 802,  
13R 803, 13R 804., 13R 805, 13R 806,  
13R 807, 13R 808, 13R 809, 13R 810,  
13R 811, 13R 812, 13R 813, 13R 814,  
13R 815, 13R 816, 13R 817, 13R 818,  
13R 819 & 13R 820

Case Nos: 14R 433 & 15R 0363;  
14R 434 & 15R 0364; 14R 435 & 15R 0365;  
14R 436 & 15R 0366; 14R 417 & 15R 0349;  
14R 418 & 15R 0350; 14R 419;  
14R 420 & 15R 0351; 14R 421 & 15R 0352;  
14R 422 & 15R 0353; 14R 423 & 15R 0354;  
14R 424 & 15R 355; 14R 425 & 15R 0356;  
14R 426 & 15R 0357; 14R 427 & 15R 0358;  
14R 428 & 15R 0359; 14R 429 & 15R 0360;  
14R 430 & 15R 0361; 14R 431 & 15R 0362;  
14R 432; 14R 437 & 15R 0367;  
14R 438 & 15R 0368; 14R 439 & 15R 0369;  
14R 440 & 15R 0370; 14R 441 & 15R 371

**ORDER FOR DISMISSAL WITH  
PREJUDICE**

**THE COMMISSION BEING FULLY INFORMED IN THE PREMISES, FINDS, AND  
DETERMINES AS FOLLOWS:**

1. On May 22, 2017, the above captioned appeals were set for a hearing to be held on August 9, 2017, on the merits of the appeals before the Tax Equalization and Review Commission (the Commission).
2. As part of that Order, the Commission issued a pre-hearing progression order that required the parties to exchange evidence.
3. On June 12, 2017, the Appellee, Lancaster County Board of Equalization (the County Board) filed a Motion to Compel Discovery. The basis of the motion was the allegation that the Appellant had not responded to the County Board's discovery requests.
4. The Commission issued an Order on June 14, 2017, consolidating the above-captioned appeals and ordering that a hearing be held on June 28, 2017, on the County Board's Motion to Compel.

5. The Commission held a hearing on the County Board's Motion to Compel on June 28, 2017. At that time, legal counsel for the County Board appeared and no one appeared on behalf of the Taxpayer.
6. On June 29, the Commission issued an Order Compelling Discovery, ordering the Taxpayer to comply with the lawful discovery requests of the County Board. The Commission gave the Taxpayer until July 5, 2017 to comply with the order.
7. On July 12, 2017, the County Board filed a Motion for Sanctions for Failure to Comply with the Order Compelling Discovery, alleging that the Taxpayer did not comply with the Order Compelling Discovery.
8. In all of the above hearings, proper notice was sent to both parties. The case files includes an affidavit of service for each notice issued by the Commission.<sup>1</sup>
9. The Commission held a hearing on July 26, 2017 to consider the Appellee's Motion for Sanctions for Failure to Comply with the Order Compelling Discovery.
10. Ryan Swaroff, Deputy Lancaster County Attorney, appeared on behalf of the County Board. No one appeared on behalf of the Taxpayer.
11. The Commission heard argument, including the County Board's request for the sanction of dismissal for refusing to comply with the Commission's Order Compelling Discovery.
12. The Rules and Regulations of the Commission state that dismissal may be an appropriate sanction against a party that does not comply with the rules discovery.<sup>2</sup>
13. In this case, the Taxpayer has not responded to the County Board's discovery request. In addition, no one has appeared on behalf of the Taxpayer in either of these hearings or filed any written response or motion. Because the Taxpayer has refused to comply with the rules and regulations of the Commission, has ignored the Commission's Order to Compel Discovery, and has failed to appear at these hearings despite proper notice, the sanction of dismissal is appropriate.

**IT IS ORDERED THAT:**

1. The County Board's motion for sanctions is granted.
2. The above-captioned appeals are dismissed with prejudice as a sanction against the Taxpayer for failing to comply with the Commission's Order Compelling Discovery.
3. A copy of this Order shall be served on each party by certified mail at the following addresses:

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<sup>1</sup> See, Case File

<sup>2</sup> Title 442 NAC ch 12, § 011.02A3

Mercy Housing Nebraska-I, LTD, now owned by V.N., LLC  
140 S 16th Street  
Lincoln, NE 68508

Ryan M. Swaroff  
575 South 10th Street  
Lincoln, NE 68508  
Legal Counsel for the Lancaster County Board of Equalization

**SIGNED AND SEALED July 31, 2017**

*Seal*

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Steven A. Keetle, Commissioner  
Tax Equalization and Review Commission

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Robert W. Hotz, Commissioner  
Tax Equalization and Review Commission

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v.

Lancaster County Board of Equalization,  
Appellee.

**AFFIDAVIT OF MAILING AMENDED  
ORDER FOR HEARING AND NOTICE  
OF HEARING  
(Motion for Sanctions for Failure to Comply  
with Order Compelling Discovery)  
(Change of Date and Time)**

STATE OF NEBRASKA )  
 ) ss.

COUNTY OF LANCASTER )

Brenda Walker, being first duly sworn and upon affiant's oath, deposes and states that  
affiant is Office Clerk III for the Tax Equalization and Review Commission; and,

Affiant further deposes and states that of the affiant's personal knowledge service of the  
Amended Order for Hearing and Notice of Hearing (Motion for Sanctions) (Change of Date and  
Time) was made in the above-captioned case on the parties as directed in the order for hearing  
by First Class United States Mail, sufficient postage prepaid, on July 20, 2017, at the addresses  
indicated below:

Mercy Housing Nebraska-I, LTD, now owned by V.N., LLC  
140 S 16th Street  
Lincoln, NE 68508

Ryan M. Swaroff  
575 South 10th Street  
Lincoln, NE 68508

**FURTHER YOUR AFFIANT SAYETH NOT.**

**DATED July 20, 2017.**

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Brenda Walker

**SUBSCRIBED AND SWORN TO** before me this July 20, 2017.

*Seal*

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Notary Public